

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EURO CLASSICS, INC.,

Plaintiff,

v.

EXEL GLOBAL LOGISTICS,

Defendant.

CASE NO. C06-843JLR

ORDER

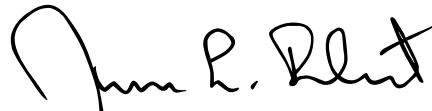
Previously, the court dismissed all claims in this case without prejudice based on Plaintiff's failure to comply with a court order directing the parties to obtain local counsel (Dkt. # 22). In doing so, the court inadvertently dismissed Defendant's counterclaim, which Defendant timely brought to the court's attention. The court hereby amends its prior order to preserve Defendant's counterclaim and directs the clerk to reopen the case. The court's decision to dismiss Plaintiff's claims remains unchanged.

The court is in receipt of Defendant's motion for summary judgment or default judgment (Dkt. # 23). It does not appear that Defendant properly served Plaintiff with its motion. Email notification to Plaintiff's out-of-state counsel, who is not registered on CM/ECF, does not suffice. See W.D. Wash. Electronic Filing Procedures Manual,

1 Section III.D. ("If the recipient is not a registered participant in ECF, service of the underlying
2 document must be made by the filer in paper form according to the Federal Rules."). To
3 ensure notice, the court orders Defendant to serve its motion on both Plaintiff's counsel in
4 New Jersey as well as on Plaintiff along with a copy of this order. In the meantime, the court
5 STRIKES the motion without prejudice to Defendant refiling it once it has properly served
6 Plaintiff.

7 Lastly, if Defendant wishes to move for default judgment in the future, it must comply
8 with Local Rules W.D. Wash CR 55 and Fed. R. Civ. P. 55(a), (b), which require an entry of
9 default by the clerk prior to an award of default judgment.

10 Dated this 11th day of December, 2006.

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14 JAMES L. ROBART
United States District Judge